

Fiscal Estimate - 2009 Session

☒ Original
 ☐ Updated
 ☐ Corrected
 ☐ Supplemental

LRB Number 09-1443/1	Introduction Number SB-066
Description operation of a motor vehicle while under the influence of an intoxicant and providing a penalty.	
Fiscal Effect State: <div style="display: flex; flex-wrap: wrap;"> <div style="width: 33%;"> <input type="checkbox"/> No State Fiscal Effect <input type="checkbox"/> Indeterminate <input checked="" type="checkbox"/> Increase Existing Appropriations <input type="checkbox"/> Decrease Existing Appropriations <input type="checkbox"/> Create New Appropriations </div> <div style="width: 33%;"> <input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Decrease Existing Revenues </div> <div style="width: 33%;"> <input type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget <div style="display: flex; justify-content: space-around;"> <input type="checkbox"/> Yes <input type="checkbox"/> No </div> <input type="checkbox"/> Decrease Costs </div> </div> Local: <input type="checkbox"/> No Local Government Costs <input checked="" type="checkbox"/> Indeterminate <div style="display: flex; flex-wrap: wrap;"> <div style="width: 33%;"> 1. <input type="checkbox"/> Increase Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory 2. <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory </div> <div style="width: 33%;"> 3. <input type="checkbox"/> Increase Revenue <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory 4. <input type="checkbox"/> Decrease Revenue <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory </div> <div style="width: 33%;"> 5.Types of Local Government Units Affected <div style="display: flex; flex-wrap: wrap;"> <div style="width: 33%;"> <input type="checkbox"/> Towns <input type="checkbox"/> Counties <input type="checkbox"/> School Districts </div> <div style="width: 33%;"> <input type="checkbox"/> Village <input type="checkbox"/> Others <input type="checkbox"/> WTCS Districts </div> <div style="width: 33%;"> <input type="checkbox"/> Cities </div> </div> </div> </div>	

Fiscal Estimate Narratives

DA 2/26/2009

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Assumptions Used in Arriving at Fiscal Estimate

Based on 2007 data from DOT, the number of 3rd offense OWI cases that occurred within five years of a first offense OWI was approximately 1,300. The number of 4th offense OWI cases was 1,902 annually. To calculate additional prosecutors needed if these offenses became felonies vs. misdemeanors:

$1,300 + 1,902 = 3,202$ cases

$3,202 \text{ cases} \times 6.32 \text{ hours (dif. between felony and misdemeanor)} = 20,236.64 \text{ hours}$

$20,237 \text{ hours divided by } 1,227 \text{ (hours annually available to ADAs for casework)} = 16.493 \text{ ADAs needed.}$

Annual salary = \$47,036

Annual fringe = \$18,433

TOTAL = $\$65,469 \times 16.5 \text{ ADAs} = \$1,080,239.$

Though an annual count of 1,300 3rd offense OWI cases was identified above and used in the estimation of additional ADAs needed, prosecutors believe that even more ADAs will be needed for work on 3rd offense OWIs due to the dramatic increase in litigation time. Prosecutors estimate that an additional 21 ADAs would be needed:

$\$65,469 \times 21 \text{ ADAs} = \$1,374,849.$

Prosecutors are emphatic about the need to be at full staffing levels before they can take on significant law changes such as this bill proposes. The most recent DA Workload Study indicated a need of approximately 120 ADAs throughout Wisconsin. The estimated cost of these additional ADAs is:

$\$65,469 \times 120 = \$7,856,280.$

The total estimate as indicated above is \$10,311,368 (which is made up of \$1,080,239 + \$1,374,849 + \$7,856,280).

Counties would face increases in jail costs.

Long-Range Fiscal Implications

There is expected to be a significant long-range fiscal impact. Please see the figures presented above.

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Fiscal Estimate Narratives

DOC 3/26/2009

LRB Number	09-1443/1	Introduction Number	SB-066	Estimate Type	Original
Description operation of a motor vehicle while under the influence of an intoxicant and providing a penalty.					

Assumptions Used in Arriving at Fiscal Estimate

Under current law there are various penalties for persons convicted of operating a motor vehicle while intoxicated (OWI), with the imprisonment terms and fines increasing with each subsequent conviction. This bill proposes several changes to the penalty provisions associated with OWI convictions.

Ignition Interlock Devices -

Current law has provisions for discretionary and mandatory court ordered interlock devices dependent on the number and frequency of OWI offenses. This bill requires the court to order installation of an ignition interlock device if the person has a third OWI conviction within any period or if the person has a second conviction within any period and had an alcohol concentration of 0.16 or greater at the time of the current offense. Offender income determination requirements are included in the bill, allowing the court to reduce fines to offset the costs of installation and maintenance for those offenders who have incomes less than the limit for the Wisconsin Works Program. The bill prohibits companies that equip ignition interlock devices on court ordered vehicles from removing the device during the period that the court ordered without the court's permission. The bill appears to place responsibility for the costs of these devices on the OWI offender so there does not appear to be a fiscal impact to the Department or to local county jails for this portion of the bill.

Winnebago County OWI Pilot Program -

State statutes currently authorize an OWI program in Winnebago County for 2nd and 3rd offense OWI offenders that includes reduced minimum periods of imprisonment as the result of successful completion of a county probation that includes alcohol and other drug assessment and treatment, community service, use of an ignition interlock device, participation with the Drunk Driving Victim Impact Panel and monthly reporting. Participation in this program is limited to only once in an offender's lifetime. This bill authorizes similar programs in any county throughout the state.

This type of program could provide cost avoidance to the Department if 3rd OWI offenders are referred to one of these county programs rather than being placed on state probation or sentenced to prison. Local county jails could also experience savings as the result of reduced jail bed days for those offenders that successfully complete these programs. It is not possible to predict, however, how many counties would implement a program similar to Winnebago County's, the number of offenders who would be referred to these programs, what sentence lengths would be attached to the referred offenders or if this program would be used in lieu of state probation or prison sentences. It is, therefore, not possible to calculate a specific fiscal impact to either the Department or local county jails on this portion of the bill.

Local County Jail Costs -

Currently 3rd Offense OWI offenders have a minimum confinement time of 30 days while 4th Offense OWI offenders have a minimum confinement time of 60 days.

This legislation increases minimum confinement from 30 days to 60 days for 3rd Offense OWI offenders if the 3rd offense occurred within five years of a prior OWI. Additionally these 3rd and all 4th Offense OWI offenders will be charged as Class I felonies. The bifurcated sentence structure under a Class I felony will require a minimum of 60 days to a maximum of 1.5 years of confinement and 2 years of extended supervision or 3 years probation and a minimum of 60 days to a maximum of 1 year in the county jail.

While the increased minimum confinement time for certain 3rd Offense OWI offenders could increase county jail confinement time ordered by Judges, it is not possible to predict what the sentencing practices of judges will be in these cases, how much of an increase will occur in county jail confinement time or what the increased costs to local county jails will be. Some of the increased confinement time allowed under this legislation may be offset by the statewide authorization for programs similar to the Winnebago County Pilot. It is unknown, however, how many counties would implement these programs, how many offenders would be referred and successfully complete the programs and what the resulting cost reductions would be.

Criminal Penalties -

The penalty for a 3rd offense OWI is increased in this bill to a Class I felony if the 3rd offense occurs within 5 years of a prior OWI conviction. The minimum term of confinement is increased from 30 days to 60 days for these offenders. Under this bill a 4th offense OWI is increased to a Class I felony with a minimum term of confinement of 60 days (the same as current law). A Class I felony is punishable with a maximum bifurcated sentence of 3.5 years (1.5 years confinement and 2 years extended supervision), a maximum fine of \$10,000 and a maximum probation term of 3 years.

Population Estimates -

It is not possible to predict how many 3rd and 4th offense OWI convictions will occur in the future. According to the Department of Transportation, in CY 2007 Wisconsin convicted 1,300 new 3rd Offense OWI offenders (whose 3rd OWI occurred within 5 years of a prior OWI) and 1,902 new 4th Offense OWI offenders.

For purposes of this fiscal estimate DOT's CY2007 OWI conviction information was used to provide estimates of staffing and costs if convictions remained as they were in 2007. The following additional assumptions were used in further breaking down these populations:

3rd Offense OWI within 5 years of previous OWI conviction

- 25% of the 3rd offense OWI offenders are sentenced to a 12 month prison sentence and two years extended supervision, and
- 75% of the 3rd offense OWI offenders are placed on probation for three years

4th Offense OWI Convictions

- 50% of the 4th offense OWI offenders are sentenced to a 15 month prison sentence and two years extended supervision, and
- 50% of the 4th offense OWI offenders are placed on probation for three years

Adult Institutions - The Department would see an increase to its inmate populations of 1,276 by the end of the first full year after enactment of this legislation. Once populations are fully annualized the Department would see a permanent increase to current population levels of 1,514 additional inmates. Although these population estimates could be reduced if OWI offenders successfully complete an Earned Release Program (ERP), it is not possible to predict how many offenders would qualify for ERP, how many would successfully complete the program and finally what the impact would be on the incarceration portion of their sentence structures.

Contract Beds - If the Department utilized contract beds at its current \$51.46 per day rate to accommodate the increased populations, increased contract bed funding of approximately \$12.9 million would be needed in the first 12 months after enactment of this legislation. An ongoing increase to the Department's contract bed funding of approximately \$28.4 million per year would be needed once these populations annualize at a permanent increase of 1,514 inmates.

These new OWI offenders would need AODA programming that is not available in the Department's contract beds. New AODA programs would need to be created within the Department's current facilities. The Department would need 144.00 additional FTE in the first year after enactment and a total of 172.00 additional FTE once the full increase of 1,514 inmates is reached. The new AODA staffing includes:

- 151.50 FTE Social Workers (staffing ratios of one social worker/every ten offenders,
- 15.00 FTE Correctional Program Supervisors, and
- 5.00 FTE Treatment Specialists

It is anticipated that the Department would need approximately \$13.1 million annually to run these programs as well as approximately \$600,000 in start-up costs. These costs do not include remodeling/construction costs that may be needed to create the kind of program spaces that are needed for AODA programming.

New Construction - If the Department constructed new facilities to accommodate these increased OWI populations, the Drug Abuse Correctional Center (DACC), which is totally dedicated to AODA programming, would be used as the model for these new facilities. The Department would need to construct four new facilities to accommodate the number of inmates that would enter the system the first full year after enactment of this legislation. A total of five new facilities would be needed to accommodate the ongoing population increase of 1,514 inmates. Construction of the new 300 bed DACC facility is estimated to be \$11.8 million; construction of five similar facilities would cost approximately \$59 million.

Using FY08 DACC per inmate annual costs, the Department estimates a need for increased operating

funding of over \$23.5 million to open four new facilities as inmates phase into these facilities during the first year. Increased funding of over \$51.6million would be needed to operate five new facilities on annual ongoing basis.

Community Corrections Populations - The Department would see an increase of 975 offenders to its Division of Community Corrections (DCC) populations by the end of the first full year after enactment of this legislation. During the first year all of this population would be made up of OWI offenders placed on probation who would also be serving a minimum of 60 days and a maximum of one year in the county jail.

By the end of the second year of enactment, the Department's DCC populations would have increased by 2,988 additional OWI offenders. During the second year, community populations would include probation offenders and inmates who have been released back into the community on extended supervision (ES). After this proposed legislation has been enacted for three years the Department anticipates a permanent increase to its community populations of 5,477 OWI offenders.

Community Corrections Staffing/Costs – If you assume that these OWI offenders will have similar supervision needs to other community corrections offenders, and you utilize the Department's Case Classification/Staff Deployment calculations to estimate additional staffing needs associated with these increased populations, the Department would need 29.50 additional FTE in the first year of enactment (20.50 FTE Probation and Parole Agents, 2.00 FTE Unit Supervisors and 7.00 clerical support positions). Once the full 5,477 additional offenders are reached, DCC would need a total of 144.50 additional FTE (101.00 FTE Probation and Parole Agents, 10.00 FTE Unit Supervisors and 33.50 clerical support positions).

If FY08 average costs of a DCC probation/parole offender (\$6.68/day) is used to estimate additional funding needed to provide community supervision for this increased population, the Department would need approximately \$1.3million for the first 12 months after enactment of this legislation, \$5.5million for the second 12 months and \$13.3million on an annual ongoing basis once the full population increase of 5,477 is reached.

It is anticipated that purchase of services (assessment/treatment) funding for this type of offender would be much greater than the average DCC offender. Additional AODA treatment in the community could be needed in the following areas:

- Aftercare treatment - approximately \$24.47/offender (1x/month for 4 months)
- Outpatient treatment – approximately \$133.12/offender (1x/month for 3 months)
- Intensive outpatient treatment – approximately \$632.83/offender (4x/week for 3 months)
- Inpatient Treatment – approximately \$120/day/offender
 - o 90 day (3 mo) program totals \$10,800/offender
 - o 120 day (4 mo) program totals \$14,400/offender
 - o 180 day (6 mo) program totals \$21,800 per offender

Although it is assumed that 100% of the DCC OWI offenders will need some of the additional AODA treatment noted above, it is not possible to predict what percentage of these offenders will need each of these different types of AODA treatment options.

Electronic Monitoring – The Department would utilize electronic monitoring on an estimated 25% of the community OWI offenders for the first 6 months of supervision and place 100% of the community OWI offenders on sobriety for the term of their community supervision. Daily costs for electronic monitoring are \$.92/day and \$1.09/day for sobriety. Using the CY2007 DOT conviction numbers, equipment costs are projected to be \$235,000 in the first year after enactment of this legislation and \$542,000 annually thereafter. An additional 6.25 FTE Monitoring Center staff would be needed in the first 12 months after enactment of this legislation at a cost of approximately \$296,400 plus \$113,700 in startup costs. On an ongoing basis the Monitoring Center would need 15.50 additional staff at a cost of \$864,800.

SUMMARY: Using CY2007 DOT conviction data and population assumptions that estimate 25% of 3rd Offense and 50% of 4th Offense OWI sentences will be sentenced to prison, it is estimated that there will be increased annual costs to DOC from \$56 million to \$66.4 million. Additional costs may also be incurred by local county jails as the result of increased minimum confinement periods.

The precise cost impact of this legislation will ultimately depend on the sentencing practices of judges under the new penalty structures and the number of offenders who violate these specific offenses.

Long-Range Fiscal Implications

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Agency/Prepared By DOJ/ Mark Rinehart (608) 264-9463	Authorized Signature Mark Rinehart (608) 264-9463
Date 6/16/2009	

Fiscal Estimate Narratives

DOJ 6/16/2009

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Assumptions Used in Arriving at Fiscal Estimate

2009 Senate Bill 66 makes several changes to existing law relating to drunk driving. The following changes will have an impact on the Department of Justice:

1) Imposing Surcharges for 1st Offense OWI with .08-.099 BAC

Under current law, a person who commits their first OWI offense with a blood alcohol concentration between .08 and .099 is subject only to a forfeiture of not less than \$150 nor more than \$300. SB 66 subjects a person who commits their first OWI offense with a blood alcohol concentration between .08 and .99 to the several surcharges and fees paid by other OWI offenders, including the crime laboratories and drug law enforcement surcharge, and the penalty surcharge.

The crime laboratories and drug law enforcement surcharge is \$8 and is used to support the DNA databank, DNA evidence prosecution efforts, the crime laboratories, and drug law enforcement efforts. The penalty surcharge is generally assessed when a court imposes a fine or forfeiture for a violation of state law or local ordinance. The penalty surcharge is 26% of the fine or forfeiture. Penalty surcharge revenues are allocated to appropriations in a number of state agencies, including DOJ, to support specific programs. Approximately 65% of penalty surcharge dollars are allocated to DOJ programs.

According to DOT, in 2007, there were 950 cases of driver license revocations for 1st offense OWI with a BAC between .08 and .099. As a result, in 2007, \$7,600 (950 x \$8) in additional crime laboratories and drug law enforcement surcharge dollars could have been generated under AB 283. Also, a minimum of \$37,050 (950 x \$150 x 26%) in additional penalty surcharge dollars could have been generated and DOJ could have received an additional \$24,082 (\$37,050 x 65%) of penalty surcharge dollars for department programs in 2007 under SB 66.

2) Making third offense OWI within five years of a prior OWI a felony and making fourth offense OWI a felony.

According to DOT, in 2007, there were approximately 1,300 convictions for third OWI offense within five years of a prior offense. DOT also reports that there were approximately 1,900 convictions for fourth OWI offense in 2007.

While most felony prosecutions are handled by district attorneys, assistant attorneys general in the Department of Justice's Criminal Litigation Unit on occasion act as special prosecutors throughout Wisconsin at the request of district attorneys. In addition, the Department of Justice's Criminal Appeals Unit represents the State of Wisconsin in defending felony convictions when those convictions are challenged in state or federal court. Under Wisconsin law, this unit is charged with preparing briefs and presenting arguments in front of any state appellate or federal court hearing a challenge to a felony conviction.

Since SB 66 broadens the types of activities that can be prosecuted as felonies. Enactment of the bill will result in an substantial increase in caseload for DOJ, particularly the Criminal Appeals Unit.

DOJ estimates that approximately one-third to one-half of the OWI-related convictions covered by SB 66 will end up being appealed. As a result, based on 2007 figures, DOJ's Criminal Appeals Unit caseload will increase by approximately 1,000-1,500 cases under SB 66. To successfully defend the convictions in those appeals, DOJ will need 20 Assistant Attorneys General to handle this increased caseload. Total salary, fringe, supplies, and equipment costs for 20 Assistant Attorneys General is \$3,078,000 for the first year and \$2,912,000 for the second and subsequent years.

DOJ's crime lab currently performs the blood alcohol analysis of blood samples submitted by local law enforcement agencies in felony OWI violations. DOJ is currently able to process incoming blood samples

within 2 days. To process an additional 3,200 blood samples annually, DOJ will require two additional gas-chromatography units and two toxicology analysts. The total cost for two GC units is \$140,000 and the total cost for two toxicology analysts is \$157,700. Even with these additional resources, DOJ estimates that the processing time for felony OWI blood samples will increase to approximately four weeks.

Total first-year costs relating to SB 66:

Approximately \$3,375,700.

Total second-year and ongoing costs relating to SB 66:

Approximately \$3,069,700.

Long-Range Fiscal Implications

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Agency/Prepared By DOT/ Richard Kleist (608) 264-7029	Authorized Signature Julie Johnson (608) 267-3703	Date 4/10/2009

Fiscal Estimate Narratives

DOT 4/10/2009

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Assumptions Used in Arriving at Fiscal Estimate

BILL SUMMARY

The proposal makes it mandatory for the court to order the installation of an IID for a person's third conviction, suspension, or revocation for OWI within any period; or if the person has a second conviction, suspension, or revocation within any period and had an alcohol concentration of 0.16 or greater at the time of the current offense.

This proposal makes a person committing their first OWI offense and has a blood alcohol concentration between 0.08 and 0.099 liable for the surcharges or fees and they must complete an alcohol or other drug assessment program before their driver license can be reinstated. The proposal also requires DOT to keep record of this offense permanently.

ASSUMPTIONS

This proposal would increase DMV workload for the data entry of IID restrictions for all second offense OWI-related convictions with a blood alcohol concentration of 0.16 or greater and all third and subsequent OWI related convictions, suspensions, or revocations counted under s. 343.307 (1). In 2007, there were just over 9,500 revocations for second offense OWI-related convictions. Assuming 60 % of those convictions resulted from a person operating with a blood alcohol concentration of 0.16 or more, 5,700 offenders would be subject to an IID restriction under this proposal. In 2007, there were approximately 5,700 revocations for third and subsequent OWI related convictions (OWI, OII, IC, NHI, GBH) each requiring an IID restriction under this proposal. This proposal would result in about an additional 7,200 IID restrictions.

Those persons convicted of operating a motor vehicle with a blood alcohol concentration between 0.08 and 0.099 would be required to complete an alcohol assessment, as is currently required of people convicted of operating with a blood alcohol concentration of 0.10 or greater. As this proposal would require more drivers to submit to alcohol assessments, it would also increase the number of revocations of operating privileges DMV must generate for failure to complete the alcohol assessment. Assuming 40% of the additional 950 persons requiring alcohol assessments did not complete those assessments (a percentage equal to first offense OWI convictions in 2007) and their operating privilege was subsequently revoked, an additional 380 revocations would be generated by DMV. Of these 380 revocations, approximately 50%, or 190 would be created manually. Additionally, an expected 50%, or 190 of the people revoked would regain compliance and subsequently reinstate their operating privilege.

Purge criteria for removal of convictions for first offense OWI with a blood alcohol concentration between 0.08 and 0.099 from the persons driving record kept on the DOT computer system must be changed as this proposal would now require these convictions to be stored on the record permanently.

CONCLUSION

In 2007, there were just over 9,500 revocations for second offense OWI-related convictions. Assuming 60 % of those convictions resulted from a person operating with a blood alcohol concentration of 0.16 or more, 5,700 offenders would be subject to an IID restriction under this proposal. In 2007, there were approximately 5,700 revocations for third and subsequent OWI related convictions (OWI, OII, IC, NHI, GBH) each requiring an IID restriction under this proposal. This proposal would result in about an additional 7,200 IID restrictions.

The fiscal impact of entering these restrictions into our database is .01 FTE (1 minute per transaction) or \$450.

In 2007, there were approximately 950 revocations for operating a motor vehicle with a blood alcohol

concentration between 0.08 and 0.099 who would under this proposal now be required to complete an alcohol assessment. Assuming 40% of these people did not complete the required assessment (a percentage equal to first offense OWI convictions in 2007) and their operating privilege was subsequently revoked, an additional 380 revocations would be generated by DMV. Of these 380 revocations, approximately 50%, or 190 would be created manually. Additionally, an expected 50%, or 190 of the people revoked would regain compliance and subsequently reinstate their operating privilege.

The fiscal impact of generating these revocations is .04 FTE or \$1800 and \$500 for supplies and services.

0.05 TCR Advanced = \$2,250 salary and fringe annually

The expected revenue generated by reinstatements of an expected 50% of these additional revocations is \$11,400.

Long-Range Fiscal Implications

See above.

Fiscal Estimate Worksheet - 2009 Session

Detailed Estimate of Annual Fiscal Effect

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LRB Number 09-1443/1		Introduction Number SB-066	
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I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect): \$300 for updating driver license computer systems changing driver record purge criteria and to allow pending flags to be set requiring alcohol assessments to be completed for persons with blood alcohol concentrations of 0.08 through 0.099.			
II. Annualized Costs:		Annualized Fiscal Impact on funds from:	
		Increased Costs	Decreased Costs
A. State Costs by Category			
State Operations - Salaries and Fringes	\$2,250	\$	
(FTE Position Changes)			
State Operations - Other Costs	500		
Local Assistance			
Aids to Individuals or Organizations			
TOTAL State Costs by Category	\$2,750	\$	
B. State Costs by Source of Funds			
GPR			
FED			
PRO/PRS			
SEG/SEG-S (s.20.395 (5) (cq))	2,750		
III. State Revenues - Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, ets.)			
	Increased Rev	Decreased Rev	
GPR Taxes	\$	\$	
GPR Earned			
FED			
PRO/PRS			
SEG/SEG-S (s.)	11,400		
TOTAL State Revenues	\$11,400	\$	
NET ANNUALIZED FISCAL IMPACT			
	State	Local	
NET CHANGE IN COSTS	\$2,750	\$	
NET CHANGE IN REVENUE	\$11,400	\$	
Agency/Prepared By	Authorized Signature	Date	
DOT/ Richard Kleist (608) 264-7029	Julie Johnson (608) 267-3703	4/10/2009	

Fiscal Estimate - 2009 Session

☒ Original
 ☐ Updated
 ☐ Corrected
 ☐ Supplemental

LRB Number 09-1443/1	Introduction Number SB-066
Description operation of a motor vehicle while under the influence of an intoxicant and providing a penalty.	
Fiscal Effect State: <div style="display: flex; flex-wrap: wrap;"> <div style="width: 33%;"> <input type="checkbox"/> No State Fiscal Effect <input type="checkbox"/> Indeterminate <input type="checkbox"/> Increase Existing Appropriations <input type="checkbox"/> Decrease Existing Appropriations <input type="checkbox"/> Create New Appropriations </div> <div style="width: 33%;"> <input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Decrease Existing Revenues </div> <div style="width: 33%;"> <input checked="" type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget <div style="display: flex; justify-content: space-around;"> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No </div> <input type="checkbox"/> Decrease Costs </div> </div> Local: <div style="display: flex; flex-wrap: wrap;"> <div style="width: 33%;"> <input checked="" type="checkbox"/> No Local Government Costs <input type="checkbox"/> Indeterminate <div style="display: flex; justify-content: space-between;"> <div> 1. <input type="checkbox"/> Increase Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory 2. <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory </div> <div> 3. <input type="checkbox"/> Increase Revenue <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory 4. <input type="checkbox"/> Decrease Revenue <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory </div> </div> </div> <div style="width: 33%;"> 5. Types of Local Government Units Affected <div style="display: flex; flex-wrap: wrap;"> <div style="width: 33%;"> <input type="checkbox"/> Towns <input type="checkbox"/> Counties <input type="checkbox"/> School Districts </div> <div style="width: 33%;"> <input type="checkbox"/> Village <input type="checkbox"/> Others <input type="checkbox"/> WTCS Districts </div> <div style="width: 33%;"> <input type="checkbox"/> Cities </div> </div> </div> </div>	
<div style="display: flex; justify-content: space-between;"> <div> Fund Sources Affected <input checked="" type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEGS </div> <div> Affected Ch. 20 Appropriations </div> </div>	
Agency/Prepared By JUDCL/ April Southwick (608) 261-8290	Authorized Signature April Southwick (608) 261-8290
Date 6/8/2009	

Fiscal Estimate Narratives

JUDCL 6/8/2009

LRB Number	09-1443/1	Introduction Number	SB-066	Estimate Type	Original
Description operation of a motor vehicle while under the influence of an intoxicant and providing a penalty.					

Assumptions Used in Arriving at Fiscal Estimate

The Judicial Council is a 21-member body of volunteers. Its current principal statutory responsibilities are to study and make recommendations relating to: (1) court pleading, practice and procedure; and (2) organization, jurisdiction and methods of administration and operation of Wisconsin courts. Senate Bill 66 expands the Judicial Council's responsibilities by requiring it to draft state-wide OWI sentencing guidelines, and make those guidelines and any revisions available to judges and attorneys at least annually.

The Judicial Council meets at the State Capitol once a month from September through June with meetings generally lasting less than four hours. Over sixty percent of the Council's members travel from Milwaukee or other areas of the state to attend meetings. Under current law, members are reimbursed for their actual expenses incurred in attending meetings, including mileage, parking and meals.

The Judicial Council is currently working on a number of projects and recommendations, and does not have sufficient time or resources to complete another major drafting project such as sentencing guidelines under its current meeting schedule. Therefore, the OWI sentencing guidelines would require the Council to place on-going projects on hold, schedule additional meetings, and/or schedule longer meetings.

Actual expense reimbursements to out-of-town council members can cost up to \$1350 per meeting. This figure does not include overnight accommodations, which would be required for approximately thirteen out-of-town council members if the Council were to conduct full day or multiple-day work sessions, at a cost of approximately \$910 per day. The Council's current budget contains no funding for 1) additional meetings or 2) overnight accommodations.

The OWI sentencing guidelines will also require a significant amount of staff time and resources, including extensive research, compilation of data, and drafting. Currently, the Judicial Council is staffed by only one attorney with no administrative support. There would also be significant cost increases for printing and distribution of information and research to council members. This project would also likely require consultation with experts in the field of alcohol abuse and treatment, and the appointment of additional ad hoc council members with expertise in areas of alcohol abuse and sentencing. At this preliminary stage and without a more detailed explanation of the goals and scope of the project, it is impossible to estimate these costs to any degree of accuracy. However, these are not the type of expenses generally incurred with any of the Council's current projects and therefore significantly increase Council costs.

Long-Range Fiscal Implications

The requirement to make the guidelines and any revisions available to judges and attorneys at least annually imposes the above fiscal implications on the Judicial Council indefinitely.

Fiscal Estimate - 2009 Session

☒ Original ☐ Updated ☐ Corrected ☐ Supplemental

LRB Number 09-1443/1		Introduction Number SB-066	
Description operation of a motor vehicle while under the influence of an intoxicant and providing a penalty.			
Fiscal Effect			
State:			
<input type="checkbox"/> No State Fiscal Effect			
<input type="checkbox"/> Indeterminate			
<input type="checkbox"/> Increase Existing Appropriations		<input type="checkbox"/> Increase Existing Revenues	
<input type="checkbox"/> Decrease Existing Appropriations		<input type="checkbox"/> Decrease Existing Revenues	
<input type="checkbox"/> Create New Appropriations		<input checked="" type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget	
		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
		<input type="checkbox"/> Decrease Costs	
Local:			
<input type="checkbox"/> No Local Government Costs			
<input type="checkbox"/> Indeterminate			
1. <input checked="" type="checkbox"/> Increase Costs		3. <input type="checkbox"/> Increase Revenue	
<input type="checkbox"/> Permissive <input checked="" type="checkbox"/> Mandatory		<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	
2. <input type="checkbox"/> Decrease Costs		4. <input type="checkbox"/> Decrease Revenue	
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory		<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	
5. Types of Local Government Units Affected			
<input type="checkbox"/> Towns		<input type="checkbox"/> Village	
<input checked="" type="checkbox"/> Counties		<input type="checkbox"/> Others	
<input type="checkbox"/> School Districts		<input type="checkbox"/> WTCS Districts	
<input type="checkbox"/> Cities			
Fund Sources Affected		Affected Ch. 20 Appropriations	
<input checked="" type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEGS			
Agency/Prepared By		Authorized Signature	
SPD/ Mike Tobin (608) 266-8259		Krista Ginger (608) 264-8572	
		Date	
		2/27/2009	

Fiscal Estimate Narratives

SPD 2/27/2009

LRB Number	09-1443/1	Introduction Number	SB-066	Estimate Type	Original
Description operation of a motor vehicle while under the influence of an intoxicant and providing a penalty.					

Assumptions Used in Arriving at Fiscal Estimate

The State Public Defender (SPD) is statutorily authorized and required to appoint attorneys to represent indigent defendants in criminal proceedings. The SPD plays a major role in ensuring that the Wisconsin justice system complies with the right to counsel provided by both the state and federal constitutions. Any legislation has the potential to increase SPD costs if it creates a new criminal offense, expands the definition of an existing criminal offense, or increases the penalties for an existing offense.

Although this bill does not create a new criminal offense, it would increase the maximum penalties for certain offenses of operating while under the influence of an intoxicant (OWI). Some third-offense OWI cases - as many as 1,300 annually, according to DOT data - would be classified as felonies under this bill, as would all fourth-offense OWIs, of which there are approximately 1,700 annually per DOT (under current law, these offenses are misdemeanors, and OWI fifth-offense and subsequent OWIs are felonies). In fiscal year 2008, the SPD's average cost per felony was \$544.58, compared to an average cost per misdemeanor of \$217.54. If half of the defendants charged with felony third or fourth offense OWI qualified for SPD representation, the increased cost for the SPD to provide representation in those 1,500 cases would be \$490,600 per year.

The proposed changes could also result in additional trials and contested sentencing hearings. These proceedings require additional attorney time and therefore increase SPD costs. The increased penalties (felony record, increased incarceration, ignition interlock, and/or mandatory alcohol or drug assessment, depending on the specific allegations) make it likely that more defendants will choose to proceed to trial, rather than to plead guilty and accept the more-severe consequences of a conviction. The increase in contested sentencing hearings is likely to occur most often in the felony cases, when the court has the discretion to impose incarceration in either county jail or state prison. Also, in the felony cases, there are likely to be additional challenges to the validity of the previous convictions that serve as the basis for the felony classification. The SPD cannot predict the number of increased trials or contested sentencing hearings; however, we could track the number of trials before and after the implementation of the bill to estimate its effect.

Counties are also subject to increased costs when a new crime is created. There are some defendants who, despite exceeding the SPD's statutory financial guidelines, are constitutionally eligible for appointment of counsel because it would be a substantial hardship for them to retain an attorney. The court is required to appoint counsel at county expense for these defendants. Thus, the possibility of additional contested sentencing hearings could add to county costs in cases in which the court appoints the defense attorney. The counties could also incur additional costs associated with longer incarceration of defendants, both pending trial and after sentencing. Depending on the number of cases resulting in prison sentences instead of jail sentences, some of the increased incarceration costs could be incurred by the Department of Corrections instead of by counties.

Long-Range Fiscal Implications